

REMARKS/ARGUMENTS

This Amendment is being filed in response to the Office Action dated August 19, 2008. Reconsideration and allowance of the application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 1-16 are pending in the Application. Claims 16-17 are added by this amendment. By means of the present amendment, claims 1-15 are amended including for better conformance to U.S. practice, such as deleting reference numerals typically used in European practice that are known to not limit the scope of the claims. Further amendments include changing "characterized in that" to -- wherein--, correcting typographical errors, amending dependent claims to begin with "The" as opposed to "A", as well as correcting certain informalities noted upon review of the claims. By these amendments, claims 1-15 are not amended to address issues of patentability and Applicant respectfully reserves all rights under the Doctrine of Equivalents. Applicant furthermore reserves the right to reintroduce subject matter deleted herein at a later time during the prosecution of this application or continuing applications.

By means of the present amendment, the Abstract has been deleted and substituted with the enclosed New Abstract which better conforms to U.S. practice.

Applicant thanks the Examiner for acknowledging the claim for priority and receipt of certified copies of all the priority document(s).

In the Office Action, the specification is objected to for a lack of headings. Applicant respectfully declines to add the headings since the section headings may be inappropriately utilized in interpreting the claimed subject matter. It is respectfully submitted that section headings are not statutorily required for filing a non-provisional patent application, but per 37 CFR 1.77 are only guidelines that are suggested for applicant's use. (See Miscellaneous Changes in Patent Practice, Response to comments 17 and 18 (Official Gazette, August 13, 1996) [Docket No: 950620162-6014-02] RIN 0651-AA75 ("Section 1.77 is permissive rather than mandatory. ... [T]he Office will not require any application to comply with the format set forth in 1.77"). Accordingly, withdrawal of the objection to the specification is respectfully requested.

In the Office Action, the drawings are objected to because of a lack of labels in FIGs. 1-3. In response, labels have been added to FIGs. 1-3. Replacement sheets including FIGs. 1-3 are enclosed. Applicant respectfully requests approval of the enclosed proposed drawing changes and withdrawal of the drawing objection.

Claims 1, 3, 4, and 15 are rejected under 35 U.S.C. §102(b) as allegedly anticipated by U.S. Patent No. 5,107,107 to Osborne ("Osborne"). Claim 2 is rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Osborne in view of U.S. Patent No. 6,067,285 to Ohta ("Ohta") in further view of U.S. Patent No. 5,768,227 to Baba ("Baba"). Claims 5-13 are rejected under 35 U.S.C. §103(a) as allegedly being obvious over Osborne in view of U.S. Patent No. 5,220,546 to Fennema ("Fennema"). Claim 14 is rejected under 35 U.S.C. §103(a) as allegedly being obvious over Osborne in view of Fennema in further view of Ohta in further view of U.S. Patent No. 4,471,477 to Bierhoff ("Bierhoff"). It is respectfully submitted that claims 1-17 are allowable over Osborne alone and in view of any combination of Baba, Fennema, Ohta and Bierhoff for at least the following reasons.

Osborne shows a laser positioning device that utilizes a dithering method wherein the current to the radial servo is

deliberately varied in a regular fashion. (See, Osborne, Col. 10, lines 17-20.) Osborne teaches that the "dither frequency is much lower than the frequency at which data is read." (See, Osborne, Col. 10, lines 25-26.) In Osborne, the dither frequency is much lower than the read frequency to enable a "range of amplitude fluctuation sensed by the detector rises and falls in a manner dependent upon how well the system is centered over the track 101, as indicated in FIG. 13." (See, Osborne, Col. 10, lines 22-25.)

The Office Action relies on Ohta for showing a disc rotational frequency in a range of 200 to 500 rpm and Baba for showing an alternating signal at 250 Hz. However, none of Osborne, Ohta and Baba disclose or suggest a relationship between the alternating signal and the disc rotational frequency.

It is respectfully submitted that the optical disc drive of claim 1 is not anticipated or made obvious by the teachings of Osborne alone and in view of any combination of Ohta, Baba, Fennema and Bierhoff. For example, Osborne alone and in view of any combination of Ohta, Baba, Fennema and Bierhoff does not disclose or suggest, an optical disc drive apparatus that amongst other patentable elements, comprises (illustrative emphasis added) "a servo control circuit having a tracking mode for controlling the

position of the lens in response to the radial error signal, comprising a first motor control circuit for controlling the lens position motor, wherein the control circuit further comprises means for applying an alternating signal to the lens position motor and wherein the alternating signal has a frequency higher than the disc rotational frequency" as recited in claim 1, and as similarly recited in claim 15. Each of Ohta, Baba, Fennema and Bierhoff are introduced for allegedly showing elements of the dependent claims and as such, do nothing to cure the deficiencies in Osborne.

Based on the foregoing, the Applicant respectfully submits that independent claims 1 and 15 are patentable over Osborne alone and in view of any combination of Ohta, Baba, Fennema and Bierhoff and notice to this effect is earnestly solicited. Claims 2-14 and 16-17 respectively depend from one of claims 1 and 15 and accordingly are allowable for at least this reason as well as for the separately patentable elements contained in each of the claims.

For example, while the Office Action relies on Osborne for showing "the alternating signal is of an amplitude sufficient to cause the lens to shake with an amplitude of at least about 0.8 to 1.0 times the track pitch", it is respectfully submitted that reliance on Osborne is misplaced. Osborne, FIG. 13 and the

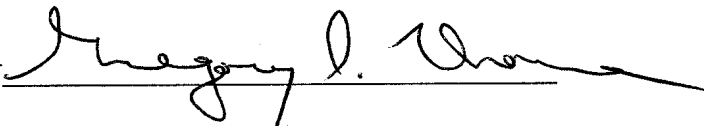
accompanying description contained in col. 10, line 17-44 is cited for showing this feature, however, in fact, the "full pit width off-track" referred to in the Office Action in rejecting claim 3, refers to an error in a positioning of the objective lens and not an amplitude of the alternating signal. As clearly shown by FIG. 13, the amplitude of the alternating signal is well less than  $\frac{1}{2}$  the track pitch.

Accordingly, separate consideration of each of the dependent claims is respectfully requested.

In addition, Applicant denies any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicant reserves the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

Applicant has made a diligent and sincere effort to place this application in condition for immediate allowance and notice to this effect is earnestly solicited.

Respectfully submitted,

By 

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Enclosure: Replacement drawing sheets (3 sheets including FIGs. 1-3)

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